

REMARKS

Applicants have received and reviewed an Office Action dated February 24, 2004. Applicants request entry of the amendment and response and reconsideration of the rejection of the claims.

Claims 1, 3-5, and 8-10 and 67-80 are currently under consideration in the present application. Claims 1, 3-4, 67-69 and 74-76 are amended. Support for amendment to the claims, is found throughout the specification, including original claims 5, 70, and 77. Claims 5, 70, and 77 are canceled, the subject matter thereof incorporated into the pending claims.

Petition for Extension of Time

It is noted that a two-month petition for extension of time is necessary to provide for the timeliness of the response. A request for such an extension is made extending the time for response from January 20, 2005 to March 20, 2005.

Priority

The specification has been amended to correctly reflect the filing date of Application No. 09/759,056 filed January 11, 2001, thereby confirming the earliest priority date for the present application is January 13, 2000. Applicants request withdrawal of this objection.

Declaration

Four complete declarations were filed by fax August 20, 2004, totally 13 pages. Only 5 pages were scanned to appear in PAIR. A copy of the submission of August 20, 2004, including a copy of Paul Polakis's declaration, is resubmitted with this action. The declarations meet the requirements of M.P.E.P. Sections 602.01 and 602.02. Applicants request withdrawal of this objection.

Specification

The specification has been amended to include proper trademark demarcation and correct the noted spelling errors, thereby alleviating the Examiner's objections. Applicants request withdrawal of this objection.

Claims

35 U.S.C. §112, ¶1, Written Description

Claims 1, 3-5, 8-10, and 67-80 were rejected under 35 U.S.C. §112, ¶1, for alleged lack of written description. The Examiner contends that the definition in the specification of members of the Wnt signaling pathway include members known today and hereinafter identified. The Examiner asserts that this language then renders the genus of tumor cells having aberrant Wnt signaling as an undefined group that cannot be distinguished from others. The Examiner also contends that apart from the tumor cells described in the specification, one of skill in the art could not recognize other tumor cells having altered Wnt signaling. Applicants respectfully traverse.

The written description requirement is satisfied when Applicants' specification conveys with reasonable clarity to those skilled in the art, that as of the filing date sought, he or she was in possession of the invention. Vas-Cath Inc. v. Mahurkar, 19 USPQ2d 1111, 1116 (Fed. Cir. 1991). A written description of an invention involving a chemical genus requires a precise definition, such as by structure, formula ... of the claimed subject matter sufficient to distinguish it from other materials. Univ. of California v. Eli Lilly and Co., 43 USPQ2d 1398, 1405 (Fed. Cir. 1997) (emphasis added). Since one skilled in the art can distinguish such a formula from others and can identify many of the species that the claims encompass, such a formula is normally an adequate description of the claimed invention. Id. at 1406 (emphasis added).

Moreover, as noted in the Guidelines for Examination of Patent Applications Under 35 U.S.C. § 112, ¶1, "Written Description" Requirement ("the guidelines"), there is a "strong presumption" that an adequate written description of the claimed invention is present when the application is filed, 66(4) Fed Reg. 1099, 1105 (2001); see also, In re Wertheim, 191 USPQ 90,97 (CCPA 1976). The guidelines further state that "The examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims." 66(4) Fed. Reg. at 1107; 191 USPQ at 97, (emphasis added).

Applicants' claims are directed to methods of selective enhancement of the expression of Stra6 in a tumor cell characterized by aberrant Wnt signaling by retinoids. Extensive guidance is

provided throughout the specification, including in Example 13, beginning at page 66, Example 15, beginning at page 79, demonstrating enhanced expression of Stra6 by Wnt-1 in combination with retinoids. For example, at page 68, lines 25-29:

The level of Stra6 induction by Wnt-1 was comparable to that observed on stimulation of the parental C57MG cells with 9-*cis*-RA. However, 9-*cis*-RA treatment of the C57MG/Wnt-1 cell line induced a further 10-fold increase in Stra6 mRNA relative to either untreated C57MG/Wnt-1 or 9-*cis*-RA treated C57MG parent cells. Similar results were obtained with all-*trans*-RA. “

The specification provides teachings to identify aberrant signaling of the Wnt pathway in tumor cells. The members and relationships of proteins/molecules in the Wnt signaling pathway are described at pages 13-14 and pages 1-2, thereby providing further guidance to recognize tumor cells characterized by aberrant Wnt signaling. Additionally, multiple examples of tumor cells or tissues that have been found to have altered expression of members of the Wnt signaling pathway have been described. Human cancers that harbor genetic defects in the Wnt-1 pathway, such as the majority of colorectal tumors which contain mutations in the genes coding for either the APC tumor suppressor or β -catenin, can be targeted for immunotherapy through retinoid/Wnt induced overexpression Stra6 on the tumor cell surface. Selective enhancement of protein expression (e.g., Stra6) of cancer cells relative to normal cells generally improves the therapeutic index for immunotherapeutics directed against that antigen. See specification at page 70, line 22 through page 71, line 37.

The present knowledge in the art regarding the Wnt signaling pathway and the ability to identify aberrant Wnt signaling, in combination with the multiple species of tumor cells characterized by aberrant Wnt signaling that are described in the specification, provide written description for the genus of tumor cells characterized by aberrant Wnt signaling. The fact that some members of the Wnt pathway have not yet been described does not negate the detailed description of many of the members of the pathway. Moreover, the description of these members of the pathway would readily allow one of skill in the art to recognize other members of the pathway as such a molecule is likely to interact with known members of the pathway.

The Examiner also asserted that the structure and function of the members of the Wnt-1 pathway are disparate in structure and function and, therefore, the application lacks written description or those members of the pathway that have not yet been described. Applicants

respectfully disagree. Applicants' claims are not directed to members of the pathway, but rather to a method of enhancement of a Stra6 protein in a tumor cell that has alterations in any member of the pathway. Therefore, in order to satisfy the written description, Applicants do not need to describe the structure and function of each member of the pathway, but only that it is a member of the pathway. Members of the pathway are identified by their relationship to one another.

The Examiner also asserts that apart from the tumor cells described in the specification, the skilled artisan cannot envision or predict the nature of defects of the Wnt signaling pathway. Applicants respectfully disagree. The specification has described several members of the Wnt-1 pathway and indicated that at least one of the members of this pathway is altered in the tumor cell. Once so identified, one of skill in the art would recognize or understand that the tumor cell will have aberrant Wnt signaling.

The Examiner also asserted that claims 74-80 are not limited to tumor cells characterized by aberrant Wnt signaling caused by defects in the expression or activity of readily known and well characterized members of the Wnt signaling pathway. Applicants respectfully disagree. Applicants have described in their specification at pages 1-2 and 13-14 that members of the pathway include APC, catenin, frizzled receptors, dishevelled protein, glycogen synthase kinase-3 β , transcription factor TCF/LEF-1, nodal related 3 gene, Xnr3, members of the homeobox family, members of the engrailed family, goosecoid, twin (Xtwn), siamois, c-myc and members of the WISP genes. The Examiner has cited no evidence that all of the described genes are not members of the Wnt signaling pathway.

Applicants respectfully assert sufficient written description is provided to convey possession of the claimed method at the time the application was filed. Reconsideration and removal of the rejection under § 112(a) is respectfully requested.

35 U.S.C. § 112, ¶ 2, Indefiniteness

Claims 4, 69, and 76 are rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner asserts that claim 4 is indefinite because recitation of the term "corresponding" in the phrase "wherein said protein is over expressed in tumor cells relative to corresponding normal cells" cannot be ascertained, leading to ambiguity. Applicants

respectfully traverse. As discussed previously, Applicants assert that the specification clearly describes the term “corresponding”. While not acquiescing in the rejection and solely to expedite prosecution, Applicants have amended the claim to remove the term “corresponding” from the claims. Applicants respectfully withdrawal of the rejection.

Applicants, therefore, respectfully request withdrawal of this rejection on this basis.

35 U.S.C. §102(a)

Claims 1, 3-5, 8-10 and 67-80 are rejected under 35 U.S.C. §102(a) as being anticipated by Chu et al. (*J. Nutr.* 129: 1846-1854, 1999) (hereinafter Chu), as evidenced by Pennica et al. (*Proc. Natl. Acad. Sci. USA* 95: 14717-14722, 1998) and Szeto et al., (*Cancer Res.* 61: 4197-4205, 2001) (hereinafter Szeto). Applicants respectfully traverse.

Under 35 U.S.C. §102, “A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently described in a single prior art references.” Verdegaal Bros. v. Union Oil of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. MPEP § 2112. The prior art characteristic must be established as a certainty, probabilities are not sufficient. In re Oelrich, 666 F.2d 578, 581 (CCPA 1981). The Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teaching of the prior art. Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

Claims 1, 3-5 and 8-10 are directed to methods for selectively enhancing the expression of a Stra6 protein in a tumor cell characterized by aberrant Wnt-signaling comprising treating said tumor cell with an effective amount of a retinoid. Claims 67-73 are directed to selective enhancement of Stra6 protein in a tumor cell characterized by aberrant Wnt signaling comprising treating said tumor cell with an effective amount of a retinoid, wherein said Stra6 protein is characterized by synergistic enhancement of its expression by a combination of Wnt-1 and said retinoid. Claims 74-80 are directed to a method for selective enhancement of Stra6 protein cell characterized by aberrant Wnt signaling of a member of Wnt signaling pathways selected from Wnt family, APC, catenin, frizzled receptors, dishevelled protein, glycogen synthase kinase-3 β ,

transcription factor TCF/LEF-1, nodal related 3 gene, Xnr3, the homeobox genes, engrailed, goosecoid, twin (Xtwn), siamois, c-myc and the WISP genes.

The Chu et al. reference does not explicitly or inherently disclose all of the elements or limitations of Applicant's claims. The Chu et al. reference does not disclose selective enhancement of Stra6 proteins in a tumor cell characterized by aberrant Wnt signaling, nor does Chu et al. disclose the synergistic enhancement of expression by a combination of Wnt pathway and said retinoid. Chu et al. also does not disclose or discuss alterations to the members of the Wnt signaling pathway. Chu et al. describes an increase in expression of single gene, Gpx2 in a single cell type treated with a retinoid (see Table 2). The Examiner admits that there is no discussion in Chu et al. of Stra6 or other proteins, or of tumor cells characterized by altered Wnt signaling or synergistic enhancement of the expression of Stra6 by the combination of Wnt and retinoid.

The Examiner asserts that Pennica establishes that breast and colon cells are characterized by altered Wnt signaling and that Chu et al. teaches treating colon and breast cancer cells with an effective amount of retinoic acid to effect expression of genes in cells. However, as discussed previously, the only cells that are common between Pennica and Chu et al. are HT-29 cells. The Chu et al. reference explicitly states that the induction of Gpx2 mRNA in MDA MB-231 and HT-29 was not significant (see page 1851, col. 1 of Chu et al.). Moreover, the Chu et al. reference states they did not detect Gpx2 mRNA in HUTU80 (human duodenum cancer cell lines), IEC-6 and IEC-18 cell lines (small intestine cell line) with and without treatment. (See page 1852, col. 2, last paragraph). One of the cell lines did have functional RAR and the authors concluded it was not clear why the Gpx2 gene could not be induced in the cells.

The Examiner has failed to establish that the missing descriptive matter is necessarily present in the alleged anticipatory reference and to provide a basis in fact or technical reasoning to reasonably support the determination that the alleged inherent characteristic necessarily flows from the teachings of the applied prior art. The possibility that missing descriptive matter may be present in the prior art is not sufficient. Applicants submit that the majority of breast and colon cell lines of Chu et al., including HT29, did not show an increase expression of Gpx2. This fact is not sufficient to show that the missing descriptive matter is necessarily present in the anticipatory reference or to establish sound basis in fact or technical reasoning that the allegedly

inherent characteristic necessarily flows from the prior art. Moreover, expression of Gpx2 would not teach one of skill in the art that expression Stra6 would be enhanced or synergistically enhanced.

In addition, neither Pennica nor Chu et al. discuss expression of Stra6 in any type of cell. The Examiner cites the Szeto et al. reference, a post-filing publication by some of the inventors, to show that Stra6 was known to be upregulated by retinoic acid and synergistic enhancement of expression of Stra6 in combination with expression in Wnt-1 cancer cells. Applicants submit, however, the Examiner is improperly using the Szeto et al. reference. Anticipation requires that each limitation of the claim be found in a single prior art reference and additional references can only be used to confirm the contents of the allegedly anticipating references and not to supply a missing claim limitation. Teleflex Inc. v. Ficosa North American Corp., 63 USPQ2d 1374, 1388 (Fed. Cir. 2002) (copy attached) citing to Studiengesellschaft Kohle, m.b.H. v. Dart Indus., Inc., 726 F.2d 724, 727, 220 USPQ 841, 842 (Fed. Cir. 1984). Applicants submit that the Examiner is citing Szeto reference to supply a missing claim limitation rather than to explain or confirm the teachings of the prior art.

Moreover, the Bouillet reference cited in Szeto et al. shows upregulation of Stra6 expression in P19 embryonal carcinoma cells, F9 carcinoma cells, and embryonic stem cells. There is no showing in this reference or any reference cited by the Examiner that these cells are characterized by aberrant Wnt signaling. Moreover, this reference also does not discuss or suggest synergistic enhancement of expression of Stra6 due to the combination of Wnt-1 and a retinoid.

Applicants respectfully request withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1-3, 8-10, and 67-80 based on Chu et al. The Examiner has failed to establish that the all of the elements of the claims are found in a single prior art reference. The secondary references cited by the Examiner do not show the missing descriptive matter is necessarily present and do not confirm that all of the claim limitations can be found in Chu et al. Applicants submit the Examiner cited Szeto et al. reference to supply missing claim elements rather to confirm the missing elements in Chu et al. Thus, Applicants respectfully request withdrawal of this rejection.

Request for an Interview

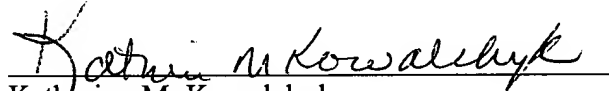
Applicants request an interview with the Examiner and his supervisor. Applicants request the Examiner contact their representative upon receipt of these papers.

Summary

In view of the above amendments and remarks, Applicants respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

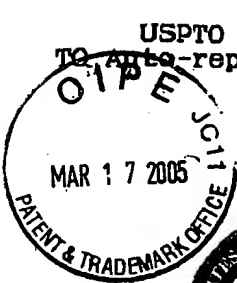
Respectfully submitted,
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Minneapolis, MN 55402-0903
Telephone: 612.371.5267

Date: March 17, 2005


Katherine M. Kowalchuk
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FROM: Anne M. Murphy

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Title of Document Transmitted: Four Supplemental Declarations Under 37 C.F.R. 61.07(a)

Applicant: Pesnica et al.
Serial No.: 09/301,812
Filed: July 10, 2001
Group Art Unit: 1642
Our Ref. No.: 11669.164USU1
Confirmation No. 7872

Please charge any additional fees or credit overpayment to Deposit Account No. 13-777. Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate.

By: Anne M. Murphy
Name: Anne M. Murphy
Reg. No.: 54,327

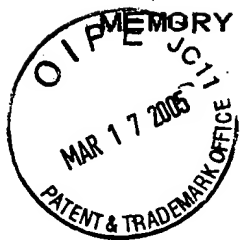
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FROM: Anne M. Murphy

OUR REF: 11669.164USU1
TELEPHONE: 612.371.5267

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Title of Document Transmitted: Four Supplemental Declarations Under 37 C.F.R. 61.67(a)

Applicant: Pennica et al.
Serial No.: 09/201,812
Filed: July 10, 2001
Group Art Unit: 1642
Our Ref. No.: 11669.164USU1
Confirmation No. 7872

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Name: Anne M. Murphy
Reg. No.: 54,327

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OUR REF: 11669.164USU1
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Title of Document Transmitted: Four Supplemental Declarations Under 37 C.F.R. §1.67(a)

Applicant: Pennica et al.
Serial No.: 09/901,812
Filed: July 10, 2001
Group Art Unit: 1642
Our Ref. No.: 11669.164USU1
Confirmation No. 7879

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Anna Morgan
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MERCHANT & GOULD P.C.

United States Patent Application

SUPPLEMENTAL DECLARATION UNDER 37 C.F.R. §1.67(a)

As a sole named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **METHODS FOR ENHANCING THE EFFICACY OF CANCER THERAPY**

The specification of which

- a. ☐ is attached hereto
 b. ☒ was filed on July 10, 2001 as application serial no. 09/901,812, which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a. ☒ no such applications have been filed.
 b. ☐ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)
07/759,056	1/11/2001	PENDING

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)
60/228,914	August 29, 2000
60/197,089	April 14, 2000
60/175,849	January 13, 2000

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;

or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application:

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assigner or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

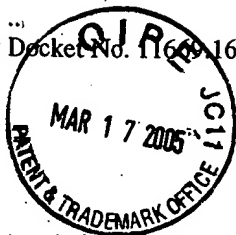
(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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2	Full Name Of Inventor	Family Name TICE	First Given Name DAVID	Second Given Name
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Signature of Inventor 204:			Date:	

23552

PATENT TRADEMARK OFFICE



MERCHANT & GOULD P.C.

United States Patent Application

SUPPLEMENTAL DECLARATION UNDER 37 C.F.R. §1.67(a)

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **METHODS FOR ENHANCING THE EFFICACY OF CANCER THERAPY**

The specification of which

- a. ☐ is attached hereto
 b. ☒ was filed on July 10, 2001 as application serial no. 09/901,812, which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

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 b. ☐ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
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U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)
07/759,056	1/11/2001	PENDING

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)
60/228,914	August 29, 2000
60/197,089	April 14, 2000
60/175,849	January 13, 2000

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

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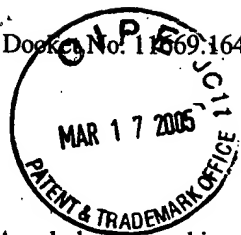
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name PENNICA	First Given Name DIANE	Second Given Name
0	Residence & Citizenship	City Burlingame	State or Foreign Country California	Country of Citizenship USA
1	Mailing Address	Address 2417 Hale Drive	City Burlingame	State & Zip Code/Country California 94010/USA
Signature of Inventor 201:			Date:	
2	Full Name Of Inventor	Family Name POLAKIS	First Given Name PAUL	Second Given Name
0	Residence & Citizenship	City Burlingame	State or Foreign Country California	Country of Citizenship USA
2	Mailing Address	Address 1449 Cortez Avenue	City Burlingame	State & Zip Code/Country California 94010/USA
Signature of Inventor 202: <i>Paul Polakis</i>			Date: <i>8/02/04</i>	
2	Full Name Of Inventor	Family Name SZETO	First Given Name WAYNE	Second Given Name
0	Residence & Citizenship	City San Francisco	State or Foreign Country California	Country of Citizenship USA
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Signature of Inventor 204:			Date:	

23552

PATENT TRADEMARK OFFICE



MERCHANT & GOULD P.C.

United States Patent Application

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U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)
07/759,056	1/11/2001	PENDING

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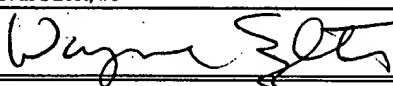
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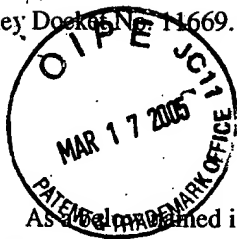
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23552

PATENT TRADEMARK OFFICE



MERCHANT & GOULD P.C.

United States Patent Application

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Signature of Inventor 203:			Date:	
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4	Mailing Address	Address 15316 Bunchberry Ct.	City Gaithersburg	State & Zip Code/Country Maryland/USA 20878 DT
Signature of Inventor 204: <i>Paul A Tice</i>			Date: 8/2/04	

23552

PATENT TRADEMARK OFFICE



Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office:

In re Application of: PENNICA ET AL.
For: METHODS FOR ENHANCING THE EFFICACY OF CANCER THERAPY
Docket No.: 11669.164USU1
Filed: JULY 10, 2001
Serial No.: 09/901,812

Date Mailed: October 20 2004

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Supplemental Information Disclosure Statement, Form 1449, 12 Reference(s), and fee of \$180.00
- ☒ Return postcard

Patent

AMurphy:PLSklg

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ONTRQ L NO. MG-053143

Requestor:

Vendor # / Name: 1002 Director of the United States Patent and Trademark Office

Check Date: 07/28/04

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VOUCHER INV. #

DATE

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MATTER #

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629386 tmorgan

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Detach Statement Before Depositing Check

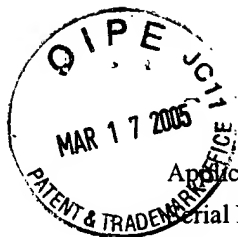
Total 180.00

Director of the United States Patent and Trademark Office

Two Signatures Required For Amounts Exceeding \$5,000

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: PENNICA ET AL. Examiner: S. RAWLINGS
Serial No.: 09/901,812 Group Art Unit: 1642
Filed: JULY 10, 2001 Docket: 11669.164USU1
Confirmation No.: 7879
Title: METHODS FOR ENHANCING THE EFFICACY OF CANCER THERAPY

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 20, 2004.

By: 

Name: KATE GANNON

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

23552

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Sir:

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Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

MERCHANT & GOULD P.C.
P.O. Box 2903, Minneapolis, MN 55402-0903
612.332.5300

By: 

Name: Anne M. Murphy

Reg. No.: 54,327

AMurphy:PLSklg